

1 THE WESTON FIRM
2 GREGORY S. WESTON (239944)
3 JACK FITZGERALD (257370)
4 888 Turquoise Street
5 San Diego, CA 92109
6 Telephone: 858 488 1672
7 Fax: 480 247 4553
8 greg@westonfirm.com
9 jack@westonfirm.com

10 BECK & LEE BUSINESS TRIAL LAWYERS
11 JARED H. BECK (233743)
12 ELIZABETH LEE BECK (233742)
13 Courthouse Plaza Building
14 28 West Flagler Street, Suite 555
15 Miami, FL 33130
16 Phone: 305 789 0072
17 Fax: 786 664 3334
18 jared@beckandlee.com
19 elizabeth@beckandlee.com

20 Counsel for Plaintiffs and the Proposed Class

21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA

23 JENNIFER RED and REBECCA
24 YUMUL, on Behalf of Themselves and
25 All Others Similarly Situated,

26 Plaintiffs,

27 v.

28 THE KROGER COMPANY,

Defendant.

Case No: **CV10-01025 DMG(MANX)**

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF UNFAIR COMPETITION
LAW, FALSE ADVERTISING
LAW, AND CONSUMER LEGAL
REMEDIES ACT**

DEMAND FOR JURY TRIAL

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

1 Plaintiffs Jennifer Red and Rebecca Yumul (“Plaintiffs”), on behalf of
2 themselves, all others similarly situated, and the general public, by and through
3 undersigned counsel, hereby sue Defendant The Kroger Company (“Kroger”) and,
4 upon information and belief and investigation of counsel, allege as follows:

5 **JURISDICTION AND VENUE**

6 1. This Court has original jurisdiction under 28 U.S.C. §1332(d)(2) (The
7 Class Action Fairness Act) because the matter in controversy exceeds the sum or
8 value of \$5,000,000 exclusive of interest and costs and more than two-thirds of the
9 members of the Class reside in states other than the state of which Defendant is a
10 citizen.

11 2. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because
12 Plaintiffs reside in and suffered injuries as a result of Kroger’s acts in this district,
13 many of the acts and transactions giving rise to this action occurred in this district,
14 and Kroger (1) is authorized to conduct business in this district and has
15 intentionally availed itself of the laws and markets of this district through the
16 promotion, marketing, distribution, and sale of its products in this district; (2)
17 resides in this district; and (3) is subject to personal jurisdiction in this district.

18 **INTRODUCTION**

19 3. Plaintiffs Jennifer Red and Rebecca Yumul repeatedly purchased
20 Kroger products containing artificial *trans* fat in California during the class period
21 defined herein.

22 4. Artificial *trans* fat raises the risk of coronary heart disease more than
23 any known nutritive product.

24 5. Artificial *trans* fat causes heart disease by raising the level of “bad”
25 LDL blood cholesterol and lowering the level of “good” HDL blood cholesterol.

26 6. Artificial *trans* fat also causes cancer.

27 7. Artificial *trans* fat also causes type-2 diabetes.

8. Kroger ChurnGold Margarine, Kroger Soft Margarine (the “Kroger Margarine Products”), and Kroger Value Graham Crackers (together with the Kroger Margarine Products, the “Kroger Products”) contain artificial *trans* fat.

9. Kroger nevertheless markets the Kroger Products as free of *trans* fat, which is false.

10. Kroger further markets its trans fat-laden Kroger Margarines as “A Cholesterol Free Product” which, while possibly true, is highly misleading because, unlike the artificial *trans* fat in the Kroger Margarines—which raise LDL cholesterol levels—direct consumption of dietary cholesterol is not linked to disease.

11. Plaintiffs seek an order that compels Kroger to (1) cease marketing and selling the Kroger Products using the misleading tactics complained of herein, (2) conduct a corrective advertising campaign, (3) restore the amounts by which Kroger was unjustly enriched, and (4) destroy all misleading and deceptive materials and products.

PARTIES

14. Defendant The Kroger Company is an Ohio corporation with its principal place of business in California and is the producer and manufacturer of the Kroger Products.

15. Plaintiffs Jennifer Red and Rebecca Yumul are residents of California who repeatedly purchased the Kroger Products for their own use in various California stores during the class period, defined below.

SUMMARY OF THE STRONG EVIDENCE OF HEALTH DANGERS OF ARTIFICIAL TRANS FAT

Artificial *trans* fat is a manufactured food product whose basic chemical structure is different from natural fat molecules.

16. *Trans* fat is naturally found in trace amounts in foods derived from

1 ruminant animals, primarily in cow's milk and red meat.¹ It is also found in small
2 quantities in human breast milk.

3 17. Also known as vaccenic acid, natural *trans* fat has never been linked
4 to any negative health effect in human beings and is chemically different than
5 artificial *trans* fat.

6 18. Initial studies on rats indicate that consumption of vaccenic acid is
7 beneficial to health.²

8 19. Artificial *trans* fat, by contrast, is manufactured in an industrial
9 process called hydrogenation, in which hydrogen atoms are added to normal
10 vegetable oil by heating the oil to temperatures above 400 degrees Fahrenheit in
11 the presence of ion donor catalyst metals such as rhodium, ruthenium, and nickel.³

12 20. The resulting product is known as partially hydrogenated vegetable oil
13 ("PHVO"), which is a major ingredient in the Kroger Margarine products, and is
14 the main source of *trans* fat in the American diet.⁴

15 21. PHVO was invented in 1901 and patented in 1902 by German chemist
16 Wilhelm Normann. PHVO molecules chemically differ from the natural fat
17 molecules in other food products, as shown in the illustrations that follow.

18 22. Natural fat, except the trace amounts of natural *trans* fat from
19 ruminant animals, comes in two varieties: (1) fats that lack carbon double bonds
20 ("saturated fat") and (2) fats that have carbon double bonds with the hydrogen

21 ¹ Dariush Mozaffarian *et al.*, *Trans Fatty Acids and Cardiovascular Disease*, 354
22 New Eng. J. Med. 1601, 1608 (2008).

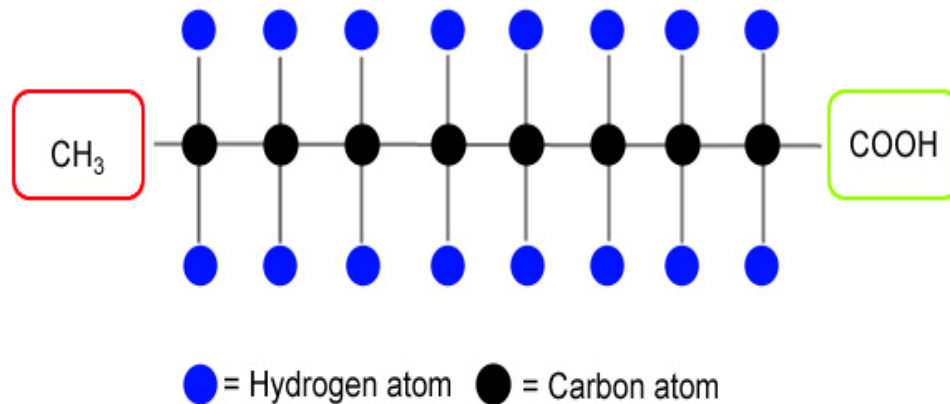
23 ² Ye Wang *et al.*, *Trans-11 Vaccenic Acid Dietary Supplementation Induces*
24 *Hypolipidemic Effects on JCR:LA-cp Rats*, 138 J. Nutrition 2117 (November
25 2008).

26 ³ See Alice H. Lichtenstein, *Trans Fatty Acids, Plasma Lipid Levels, and Risk of*
27 *Developing Cardiovascular Disease*, 95 Circulation 2588, 2588-90 (1997).

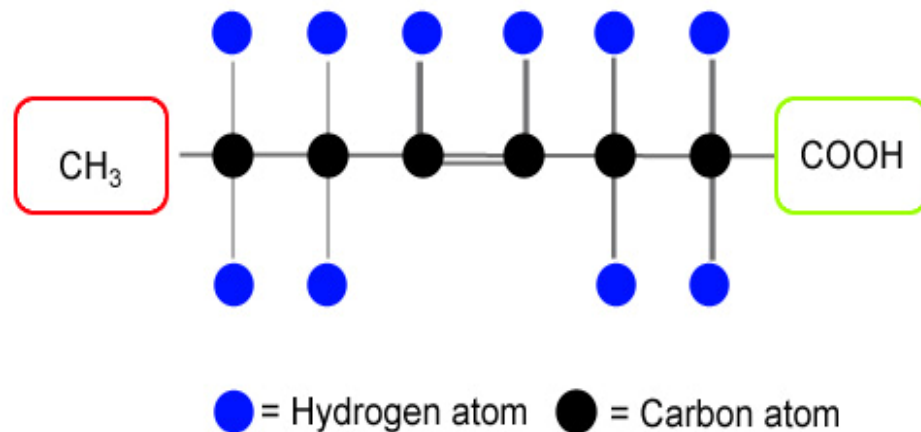
28 ⁴ See Mozaffarian, 354 New Eng. J. Med. at 1608.

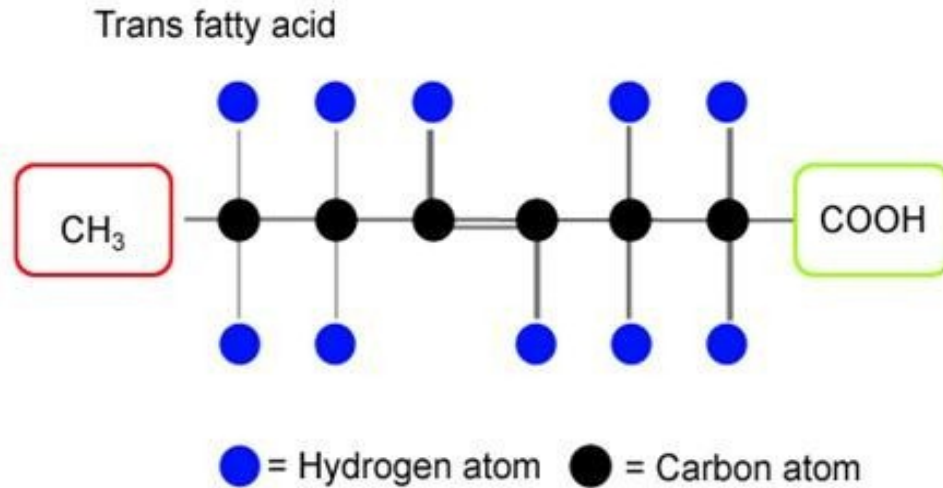
atoms on the same side on the carbon chain (“*cis* fat”). *Trans* fat, however, has double bonds on opposite sides of its carbon chain.

Saturated fat



Cis fatty acid





23. PHVO was initially a “wonder product” attractive to the packaged food industry because it combines the low cost of unsaturated *cis* fat with the flexibility and long shelf life of saturated fat. Like *cis* fat, PHVO is manufactured from lower-cost legumes,⁵ while saturated fat is derived from relatively expensive animal and tropical plant sources.⁶

24. Like natural saturated fat, PHVO has a long shelf life, physical solidity, and flavor stability. The industrial process that adds hydrogen ions to normal vegetable oil improves food texture and permits food products to withstand heavy mechanical processing and high temperatures.⁷ Given its versatility, PHVO

⁵ e.g., corn oil, soybean oil, peanut oil

⁶ e.g., butter, cream, tallow, coconut oil

⁷ See Alberto Ascherio *et al.*, *Trans Fatty Acids & Coronary Heart Disease*, 340 New Eng. J. Med. 94, 94-8 (1999). See also Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., Questions & Answers About Trans Fat Nutrition Labeling (Update 2006) (2003), available at <http://www.cfsan.fda.gov/%7Edms/qatrans2.html#fn>.

1 was recently used in 40 percent of processed packaged foods.⁸

2 25. Artificial *trans* fat does not exist in nature, and the human body has
3 not evolved to digest it. The same unusual and unnatural chemical structure that
4 gives artificial *trans* fat properties attractive from an industrial perspective makes it
5 highly toxic to human health.

6 **Trans fat causes cardiovascular disease, type 2 diabetes, and cancer.**

7 • **Heart Disease**

8 26. In a joint Dietary Guidelines Advisory Committee Report, the U.S.
9 Department of Health and Human Services and the U.S. Department of Agriculture
10 recognized “[t]he relationship between trans fatty acid intake and LDL
11 cholesterol is direct and progressive, increasing the risk of cardiovascular
12 disease.”⁹

13 27. Food products with *trans* fat harm the heart by “rais[ing] the
14 concentration of the most dangerous form of serum cholesterol (LDL cholesterol)”
15 and “lower[ing] a protective form of serum cholesterol (HDL cholesterol).”¹⁰

16 28. The American Heart Association notes “**trans fats raise your bad**
17 **(LDL) cholesterol levels and lower your good (HDL) cholesterol levels. Eating**
18 **trans fats increases your risk of developing heart disease.**”¹¹

19 29. After an extensive evaluation of the scientific literature on the *trans*
20 fat/Coronary Heart Disease (“CHD”) connection, the FDA concluded:

21 ⁸ Mary Carmichael, *The Skinny on Bad Fat*, Newsweek, Dec. 1, 2003, at 66. *See*
22 *also* Kim Severson, *Hidden Killer. It’s Trans Fat. It’s Dangerous. And It’s In*
23 *Food You Eat Every Day*, S.F. Chron., Jan. 30, 2002.

24 ⁹ Dep’t of Health & Human Serv. & U.S. Dep’t of Agric., 2005 Dietary Guidelines
25 Advisory Committee Report, Section 10 (2005).

26 ¹⁰ *Id.*

27 ¹¹ Am. Heart Ass’n., *Trans Fat Overview*, available at
28 <http://www.americanheart.org/presenter.jhtml?identifier=3045792>.

[B]ased on the consistent results across a number of the most persuasive types of study designs (i.e., intervention trials and prospective cohort studies) that were conducted using a range of test conditions and across different geographical regions and populations . . . the available evidence for an adverse relationship between trans fat intake and CHD risk is strong.¹²

30. *Trans* fat raises the risk of CHD more than any other known nutritive product.¹³

31. Removing 2% of daily calories from *trans* fat from the American diet “would prevent approximately 30,000 premature coronary deaths per year, and epidemiologic evidence suggests this number is closer to 100,000 premature deaths annually.”¹⁴

32. A study on the impact of *trans* fatty acids on heart health provides evidence that:

[E]ven the lower estimates from the effects [of PHVO] on blood lipids would suggest that more than 30,000 deaths per year may be due to the consumption of partially hydrogenated vegetable fat. Furthermore, the number of attributable cases of nonfatal coronary heart disease will be even larger.¹⁵

33. Since “the adverse effect of trans fatty acids is stronger than that of saturated fatty acids,” saturated fat consumption would need to be reduced by 10

¹² Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., Questions & Answers About Trans Fat Nutrition Labeling.

¹³ Mozaffarian, 354 New Eng. J. Med. at 1603.

¹⁴ Alberto Ascherio *et al.*, *Trans Fatty Acids & Coronary Heart Disease*, 340 New Eng. J. Med. 94, 94-8 (1999).

¹⁵ W.C. Willett *et al.*, *Trans Fatty Acids: Are the Effects only Marginal?* 84 Am. J. Pub. Health 722, 723 (1994).

1 percent of caloric intake to have the same impact.¹⁶

2 34. “10 to 19 percent of CHD events in the United States could be averted
3 by reducing the intake of trans fat.”¹⁷

4 35. By raising LDL levels and lowering HDL levels, *trans* fat causes a
5 wide variety of dangerous heart conditions, including low flow-mediated
6 vasodilation, coronary artery disease, and primary cardiac arrest.

7 36. After conducting a crossover diet trial, Danish researchers determined
8 that healthy men and women who maintained a high-*trans* fat diet had 21 percent
9 lower protective HDL levels and 29 percent lower flow-mediated vasodilation
10 (“FMD”) than those on a high-saturated fat diet. Since FMD measures the percent
11 increase between the diameter of the artery at ordinary and at maximum dilation,
12 low FMD is “a risk marker of coronary heart disease.”¹⁸

13 37. Australian researchers observed that heart attack patients possess
14 elevated amounts of *trans* fat in their adipose tissue, strongly linking heart disease
15 with long-term consumption of *trans* fat.¹⁹

16 38. By taking blood samples from 179 survivors of cardiac arrest and 285
17 randomly-selected control patients and comparing the top fifth with the bottom
18 fifth of participants by *trans* fat intake, another study published in the American
19 Heart Association’s *Circulation* found that the largest consumers of *trans* fat have

20 _____
21 ¹⁶ Mozaffarian, 354 New Eng. J. Med. at 1609.

22 ¹⁷ See Mozaffarian, 354 New Eng. J. Med. at 1611.

23 ¹⁸ Nicole M. De Roos *et al.*, *Replacement of Dietary Saturated Fatty Acids by*
24 *Trans Fatty Acids Lowers Serum HDL Cholesterol and Impairs Endothelial*
25 *Function in Healthy Men and Women*, 21 Am. Heart Assoc. 1233, 1233-37
(2001).

26 ¹⁹ Peter M. Clifton *et al.*, *Trans Fatty Acids In Adipose Tissue And The Food*
27 *Supply Are Associated With Myocardial Infarction*. 134 J. of Nutrition 874, 874-79
(2004).

three times the risk of suffering primary cardiac arrest, even after controlling for a variety of medical and lifestyle risk factors.²⁰

• **Diabetes**

39. Artificial *trans* fat causes type 2 diabetes.²¹

40. A 14-year study of 84,204 women found that for every 2 percent increase in energy intake from *trans* fat, the relative risk of type 2 diabetes was 1.39. In other words, each 2 percent of calories from artificial *trans* fat increases the risk of type 2 diabetes by 39 percent.²²

• **Cancer**

41. *Trans* fat is a known carcinogen shown to cause breast, prostate, and colorectal cancer.

42. A 13-year study of 19,934 French women showed 75 percent more women contracted breast cancer in the highest quintile of *trans* fat consumption than did those in the lowest.²³

43. In a 25-year study of 14,916 U.S. physicians, the doctors in the highest quintile of *trans* fat intake had over a 100% greater risk of developing prostate cancer than the doctors in the lowest quintile.²⁴

44. A study of 1,012 American males observing *trans* fat intake and the

²⁰ Rozenn N. Lemaitre *et al.*, *Cell Membrane Trans-Fatty Acids and the Risk of Primary Cardiac Arrest*, 105 *Circulation* 697, 697-701 (2002).

²¹ Am. Heart Ass'n., *Trans Fat Overview*.

²² Jorge Salmeron *et al.*, *Dietary Fat Intake and Risk of Type 2 Diabetes in Women*, 73 *Am. J. of Clinical Nutrition* 1019, 1023 (2001).

²³ Véronique Chajès *et al.*, *Association between Serum Trans-Monounsaturated Fatty Acids and Breast Cancer Risk in the E3N-EPIC Study*. 167 *Am. J. of Epidemiology* 1312, 1316 (2008).

²⁴ Jorge Chavarro *et al.*, *A Prospective Study of Blood Trans Fatty Acid Levels and Risk of Prostate Cancer*, 47 *Proc. Am. Assoc. of Cancer Research* 95, 99 (2006).

1 risk of prostate cancer found “[c]ompared with the lowest quartile of total trans-
 2 fatty acid consumption, the higher quartiles gave odds ratios (ORs) equal to 1.58,”
 3 meaning those in the highest quartile are 58% more likely to contract prostate
 4 cancer than those in the lowest.²⁵

5 45. A 600-person study found an 86 percent greater risk of colorectal
 6 cancer in the highest *trans* fat consumption quartile.²⁶

7 46. A 2,910-person study found “*trans*-monounsaturated fatty acids . . .
 8 were dose-dependently associated with colorectal cancer risk,” which showed “the
 9 importance of type of fat in the etiology and prevention of colorectal cancer.”²⁷

10 47. The serious health conditions caused by *trans* fat consumption only
 11 occur from artificial *trans* fat, not the trace natural *trans* fat found in ruminant
 12 sources:

13 Of four prospective studies evaluating the relation between the intake
 14 of trans fatty acids from ruminants and the risk of CHD, none
 15 identified a significant positive association, whereas three identified
 16 nonsignificant trends toward an inverse association. . . . [T]he sum of
 17 the current evidence suggests that the public health implications of
 consuming trans fats from ruminant products are relatively limited.²⁸

18 **The grave, concrete risks of artificial *trans* fat consumption far outweigh any**
 19 **conceivable benefits of Kroger’s conduct.**

20 48. There is no health benefit to artificial *trans* fat consumption and “no

21
 22 ²⁵ Xin Liu *et al.*, *Trans-Fatty Acid Intake and Increased Risk of Advanced Prostate*
 23 *Cancer: Modification by RNASEL R462Q Variant*, 28 *Carcinogenesis* 1232, 1232
 (2007).

24 ²⁶ L.C. Vinikoor *et al.*, *Consumption of Trans-Fatty Acid and its Association with*
 25 *Colorectal Adenomas*, 168 *Am. J. of Epidemiology* 289, 294 (2008).

26 ²⁷ Evropi Theodoratou *et al.*, *Dietary Fatty Acids and Colorectal Cancer: A Case-*
 27 *Control Study*, 166 *Am. J. of Epidemiology* 181 (2007).

28 ²⁸ Mozaffarian, 354 *New Eng. J. Med.* at 1608-1609.

1 safe level” of artificial *trans* fat intake.²⁹

2 49. According to the established consensus of the scientific community,
3 consumers should keep their consumption of *trans* fat “as low as possible.”³⁰

4 50. As Dr. Dariush Mozaffarian notes in the New England Journal of
5 Medicine:

6 [F]rom a nutritional standpoint, the consumption trans fatty acids
7 results in considerable potential harm but no apparent benefit. . . .
8 Thus, complete or near-complete avoidance of industrially produced
9 trans fat—a consumption of less than 0.5 percent of the total energy
10 intake—may be necessary to avoid adverse effects and would be
prudent to minimize health risks.³¹

11 **Trans fat is so inherently dangerous that it is being banned in an increasing**
12 **number of American states and European countries.**

13 51. In 2008, California became the first state to ban all restaurant food
14 with artificial *trans* fat, a law affecting approximately 88,000 eating
15 establishments. *Trans* fats are now banned in restaurants as of January 1, 2010.

16 52. New York City banned all *trans* fat in its 20,000 food establishments
17 in 2006. Similar laws exist in Philadelphia; Baltimore; Stamford, Connecticut; and
18 Montgomery County, Maryland.

19 53. A 2004 Danish law restricted all foods to under 2 percent of calories
20
21

22 ²⁹ Food & Nutrition Bd., Inst. of Med., Dietary Reference Intakes For Energy,
23 Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids
24 (2005).

25 ³⁰ Food & Nutrition Bd., Inst. of Med., Dietary Reference Intakes For Energy,
26 Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids 424
(2005).

27 ³¹ Mozaffarian, 354 New Eng. J. Med. at 1609.

1 from *trans* fat. Switzerland made the same restriction in 2008.³²

2 54. After conducting a surveillance study of Denmark's *trans* fat ban,
3 researchers concluded the change "did not appreciably affect the quality, cost or
4 availability of food" and did not have "any noticeable effect for the consumers."³³

5 55. In 2006, a *trans* fat task force co-chaired by Health Canada and the
6 Heart and Stroke Foundation of Canada recommended capping *trans* fat content at
7 2 percent of calories for tub margarines and spreads and 5 percent for all other
8 foods. On September 30, 2009, British Columbia became the first province to
9 impose these rules on all restaurants, schools, hospitals, and special events.³⁴

10 **Direct consumption of dietary cholesterol is unrelated to heart disease.**

11 56. By raising bad cholesterol and lowering good cholesterol levels, *trans*
12 fat raises the risk of CHD more than any other known nutritive product.³⁵ By
13 contrast, dietary cholesterol intake is unrelated to CHD risk.³⁶

14 57. Kroger, however, markets the Kroger Margarines as "A Cholesterol
15

16 ³² Andrew Collier, *Deadly Fats: Why Are We still Eating Them?*, The Independent
17 (UK), June 10, 2008.

18 ³³ Mozaffarian, 354 New Eng. J. Med. at 1610; *see also* High Levels of Industrially
19 Produced Trans Fat in Popular Fast Food, 354 New Eng. J. Med. 1650, 1652
(2006).

20 ³⁴ *Province Restricts Trans Fat in B.C.*, British Columbia Ministry of Healthy
21 Living and Sport Press Release (2009), *available at*
22 [http://www2.news.gov.bc.ca/news_releases_2005-2009/2009HLS0013-](http://www2.news.gov.bc.ca/news_releases_2005-2009/2009HLS0013-000315.htm)

23 ³⁵ Mozaffarian, 354 New Eng. J. Med. at 1602.

24 ³⁶ Katja L. Esrey *et al.*, *Relationship Between Dietary Intake and Coronary Heart*
25 *Disease Mortality: Lipid Research Clinics Prevalence Follow-up Study*, 49 J. Clin.
26 *Epidemiol* 2:211, 212-216 (1996). *See also* Barbara Millen Posner *et al.*, *Dietary*
27 *Lipid Predictors of Coronary Heart Disease in Men: The Framingham Study*, 151
28 *Arch Intern Med* 1181, 1184-86 (June 1991).

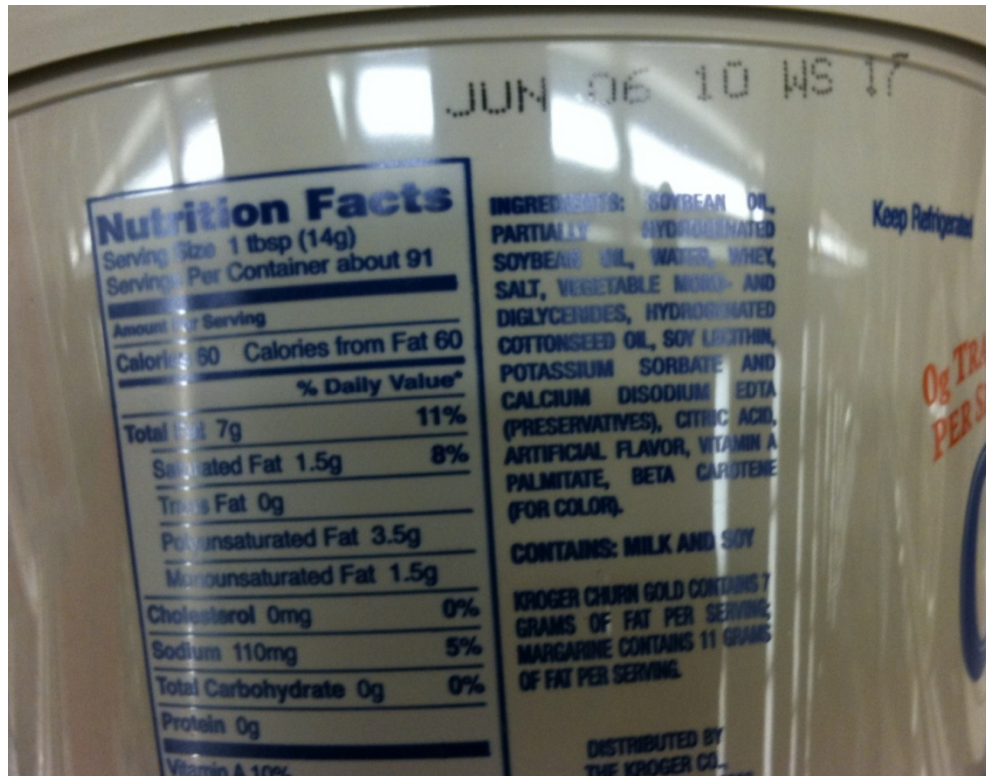
1 Free Food,” implying a connection between dietary cholesterol and disease where
2 none exists, thereby misleading consumers who purchase the Kroger Margarines
3 believing they are healthy when the Kroger Margarines in fact contain substantial
4 and dangerous levels of artificial *trans* fat.

5 58. Kroger’s “A Cholesterol Free Food” claims further insinuate that
6 consumption of the Kroger Margarines is useful for the maintenance of healthy
7 serum cholesterol levels when in fact the consumption of the *trans*-fat laden
8 Kroger Margarines negatively impacts serum cholesterol levels. Kroger thus
9 deceives consumers concerned about cardiovascular health into purchasing
10 products harmful to their hearts.

**SPECIFIC MISREPRESENTATIONS, MATERIAL
OMISSIONS, AND DECEPTIVE ACTS**

Kroger ChurnGold Margarine





1 59. **Misleading cholesterol claim:** Kroger prominently labels Kroger
2 ChurnGold Margarine “a Cholesterol Free Food.”

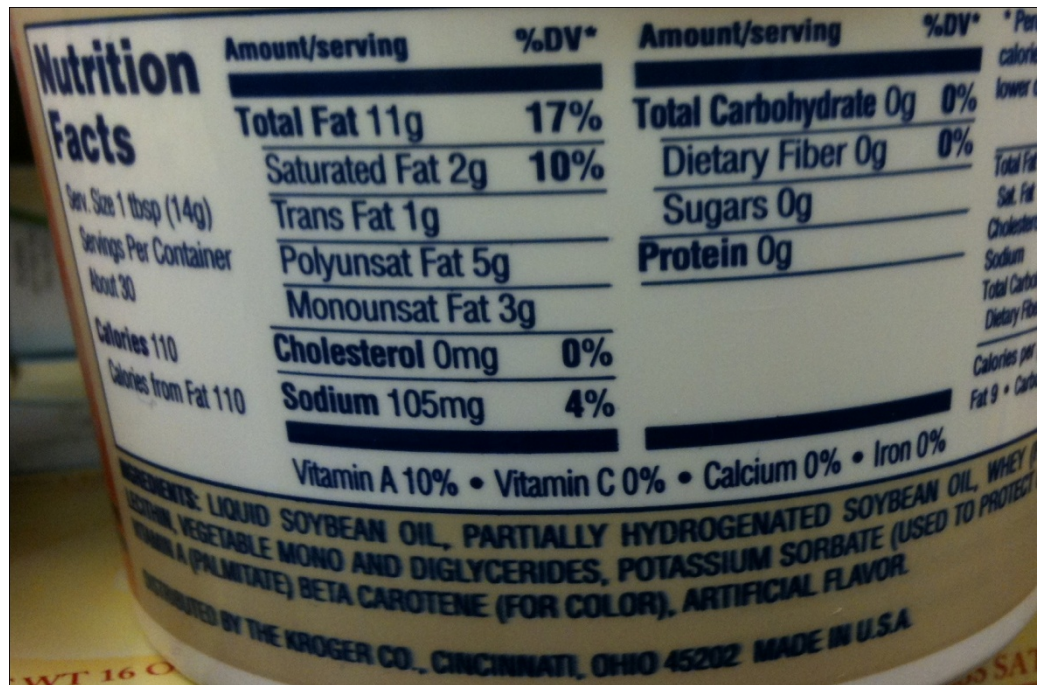
3 60. As described in detail above, the risk of CHD is not related to the
4 consumption of dietary cholesterol, but to the serum levels of LDL cholesterol
5 relative to HDL cholesterol. Kroger’s ChurnGold Margarine contains substantial
6 and dangerous levels of artificial *trans* fat, which increases LDL cholesterol and
7 decreases HDL cholesterol levels. Kroger capitalizes on a common misperception
8 of the relative importance of dietary cholesterol to fool consumers who are
9 concerned about heart health, leading them to purchasing a product that increases
10 their LDL serum cholesterol, lowers their HDL serum cholesterol, and raises their
11 risk for heart disease, diabetes, and cancer.

12 61. **Misleading *trans* fat claim:** Kroger prominently labels Kroger
13 ChurnGold Margarine “0g TRANS FAT PER SERVING.”

14 62. Kroger ChurnGold Margarine contains various hydrogenated oils. As
15 described in detail above, the process of hydrogenating oils creates artificial *trans*
16 fats. Thus, Kroger ChurnGold Margarine contains artificial *trans* fats and Kroger’s
17 claim of “0g TRANS FAT PER SERVING” is literally false.

Kroger Soft Margarine

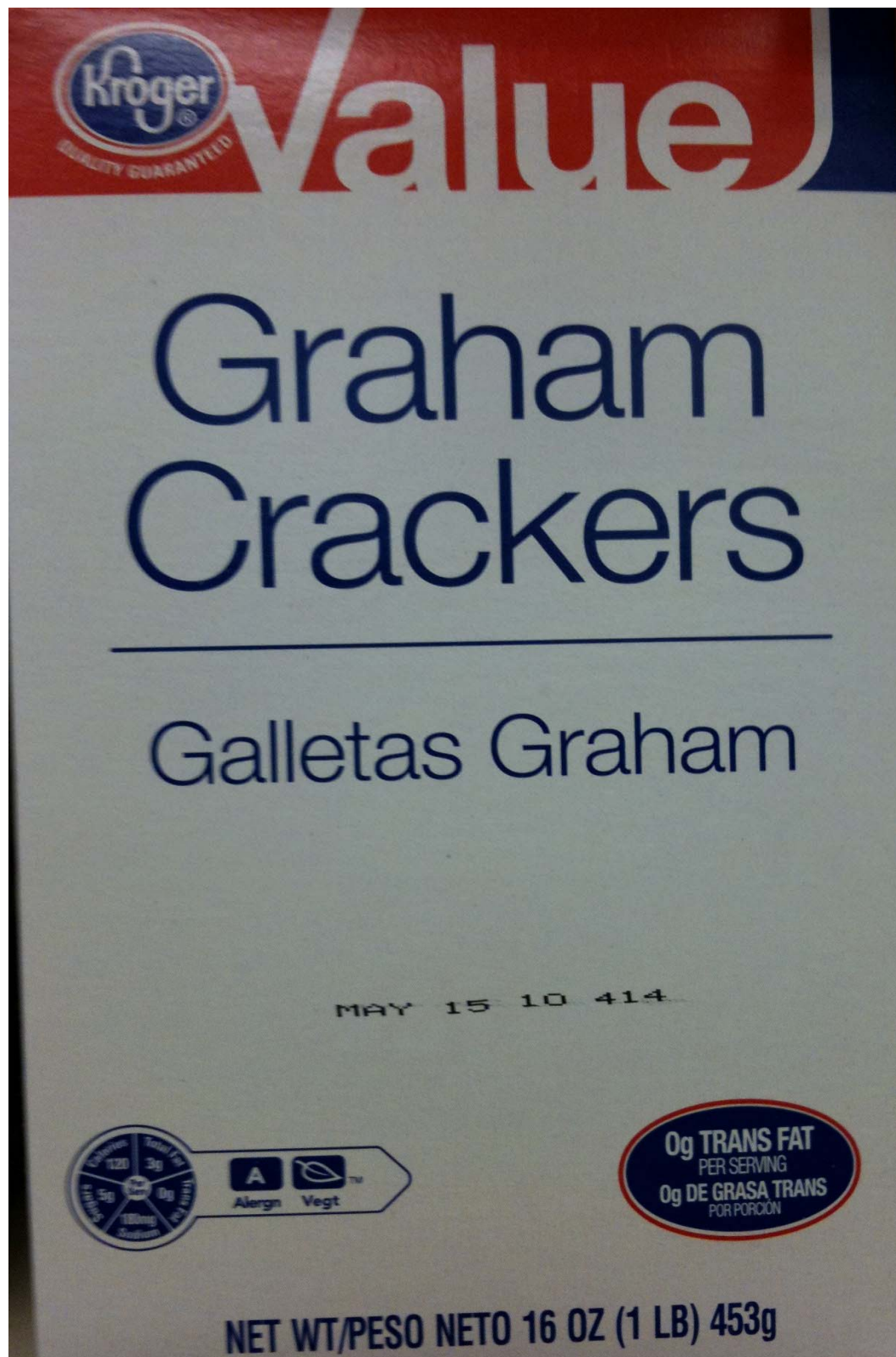




63. **Misleading cholesterol claim:** Kroger prominently labels Kroger Soft Margarine “A Cholesterol Free Food.”

64. As described in detail above, the risk of CDH is not related to the consumption of dietary cholesterol, but to the serum levels of LDL cholesterol relative to HDL cholesterol. Kroger’s Soft Margarine contains substantial and dangerous levels of artificial *trans* fat, which increases LDL cholesterol and decreases HDL cholesterol levels. Kroger capitalizes on a common misperception of the relative importance of dietary cholesterol to fool consumers who are concerned about heart health, leading them to purchasing a product that increases their LDL serum cholesterol, lowers their HDL serum cholesterol, and raises their risk for heart disease, diabetes, and cancer.

Kroger Value Graham Crackers



Nutrition Facts/Datos Nutricional			
Serving Size/Tamaño de la Porción 4 crackers/4 galletas (27g)			
Servings Per Container/Porciones por Paquete about/aproximadamente 17			
Amount Per Serving/Cantidad por Porción			
Calories/Calorías 120 Calories from Fat/Calorías derivadas de la Grasa 30			
% Daily Value* / % del Valor Diario*			
Total Fat/Grasa Total	3g		5%
Saturated Fat/Grasa Saturada	0.5g		3%
Trans Fat/Grasa Trans	0g		
Cholesterol/Colesterol	0mg		0%
Sodium/Sodio	180mg		8%
Total Carbohydrate/Total de Carbohidratos	20g		7%
Dietary Fiber/Fibra Dietética	1g		5%
Sugars/Azúcares	5g		
Protein/Proteína	2g		
Vitamin/Vitamina A	0%	•	Vitamin/Vitamina C 0%
Calcium/Calcio	0%	•	Iron/Hierro 4%
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:		*Los Valores de los porcentajes Diarios estan basado en una dieta de 2,000 calorías. Sus valores diarios pueden ser mayor o menor dependiendo de sus necesidades calóricas:	
	Calories/Calorías:	2,000	2,500
Total Fat/Grasa Total	Less than/Menos de	65g	80g
Sat Fat/Grasa Saturada	Less than/Menos de	20g	25g
Cholesterol/Colesterol	Less than/Menos de	300mg	300mg
Sodium/Sodio	Less than/Menos de	2,400mg	2,400mg
Total Carbohydrate/Carbohidrato Total		300g	375g
Dietary Fiber/Fibra Dietética		25g	30g
INGREDIENTS: ENRICHED FLOUR (WHEAT FLOUR, BARLEY MALT, NIACIN, REDUCED IRON, THIAMIN MONONITRATE, RIBOFLAVIN, FOLIC ACID), GRAHAM FLOUR, SUGAR, WATER, VEGETABLE SHORTENING (COTTONSEED OIL, PARTIALLY HYDROGENATED SOYBEAN OIL, CITRIC ACID, TBHQ [ANTIOXIDANT]), HONEY, HIGH FRUCTOSE CORN SYRUP. CONTAINS 2% OR LESS OF SALT, OAT FIBER, SODIUM BICARBONATE, NATURAL AND ARTIFICIAL FLAVORS (MODIFIED CORN STARCH, CORN STARCH, GUM ARABIC, BUTTERMILK SOLIDS, CREAM, NONFAT MILK, CULTURES, XANTHAN GUM, CITRIC ACID, POTASSIUM SORBATE [PRESERVATIVE]), AMMONIUM BICARBONATE, SODIUM SULFITE, ENZYMES. CONTAINS: WHEAT AND MILK.			
INGREDIENTES: HARINA ENRIQUECIDA (HARINA DE TRIGO, CEBADA MALTEADA, NIACINA, HIERRO REDUCIDO, MONONITRATO DE TIAMINA, RIBOFLAVINA, ÁCIDO FÓLICO), HARINA GRAHAM, AZÚCAR, AGUA, MANTECA VEGETAL (ACEITE DE			

65. **Misleading *trans* fat claim:** Kroger prominently labels Kroger Value Graham Crackers “0g TRANS FAT PER SERVING” and “0g DE GRASA TRANS POR PORCION” (the Spanish equivalent).

66. Kroger Value Graham Crackers contains partially hydrogenated oil. As described in detail above, the process of hydrogenating oils creates artificial *trans* fats. Thus, Kroger ChurnGold Margarine contains artificial *trans* fats and Kroger’s claim of “0g TRANS FAT PER SERVING” is literally false.

CLASS ACTION ALLEGATIONS

67. Plaintiffs bring this action on behalf of themselves and all others similarly situated (the “Class”) in accordance with Rule 23 of the Federal Rules of Civil Procedure.

68. The Class is defined as:

All persons (excluding officers, directors, and employees of Kroger) who purchased, on or after January 1, 2000, Kroger ChurnGold Margarine, Kroger Soft Margarine, and/or Kroger Graham Crackers in the United States for their own use rather than resale or distribution.

69. Questions of law and fact common to Plaintiffs and the Class include:

- a. Whether Kroger contributed to, committed, and/or is responsible for the conduct alleged herein;
- b. Whether Kroger’s conduct constitutes the violations of law alleged herein;
- c. Whether Kroger acted willfully, recklessly, negligently, or with gross negligence in the violations of law alleged herein; and
- d. Whether Class members are entitled to compensatory, injunctive, and other equitable relief.

70. By purchasing and/or using the Kroger Products, all Class members were subjected to the same wrongful conduct.

71. Absent Kroger’s deceptive claims and fraudulent omissions, Plaintiffs

1 and class members would not have purchased the Kroger Products.

2 72. Plaintiffs' claims are typical of the Class's claims. Plaintiffs will fairly
3 and adequately protect the interests of the Class, have no interests that are
4 incompatible with the interests of the Class, and have retained counsel competent
5 and experienced in class litigation.

6 73. The Class is sufficiently numerous, as it includes at least hundreds of
7 thousands of individuals who purchased the Kroger Products throughout the
8 United States during the class period.

9 74. Class representation is superior to other options for the resolution of
10 the controversy. The relief sought for each Class member is small. Absent the
11 availability of class action procedures, it would be infeasible for Class members to
12 redress the wrongs done to them.

13 75. Kroger has acted on grounds applicable to the Class, thereby making
14 appropriate final injunctive relief or declaratory relief concerning the Class as a
15 whole.

16 76. Questions of law and fact common to the Class predominate over any
17 questions affecting only individual members.

18 **Kroger fraudulently concealed the health hazards of consuming its products.**

19 77. Any applicable statute of limitations is tolled by Kroger's
20 affirmatively concealing and publicly misrepresenting its violations of law as
21 described herein. A reasonable consumer would have relied on the deceptive and
22 false claims made on the packaging of the Kroger Products, and through the
23 exercise of reasonable diligence would not have discovered the violations alleged
24 herein because Kroger actively and purposefully concealed the truth regarding its
25 products.

FIRST CAUSE OF ACTION

**Violations of the California Unfair Competition Law,
Bus. & Prof. Code § 17200 *et seq.*,
and the Common Law of Unfair Competition**

78. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

79. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or fraudulent business act or practice.”

80. The acts, omissions, misrepresentations, practices, and non-disclosures of Kroger as alleged herein constitute “unlawful” business acts and practices in that Kroger’s conduct violates the False Advertising Law and the Consumer Legal Remedies Act.

81. The acts, omissions, misrepresentations, practices, and non-disclosures of Kroger as alleged herein constitute “unfair” business acts and practices in that Kroger’s conduct is immoral, unscrupulous, and offends public policy. Further, the gravity of Kroger’s conduct outweighs any conceivable benefit of such conduct.

82. The acts, omissions, misrepresentations, practices, and non-disclosures of Kroger as alleged herein constitute “fraudulent” business acts and practices in that Kroger’s conduct has a tendency to deceive the Class and the general public.

83. By violating the California Unfair Competition Law, Kroger also violated the common law of unfair competition.

84. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining Kroger from continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices and to commence a corrective advertising campaign.

85. Plaintiffs further seek an order for the disgorgement and restitution of all monies from the sale of the Kroger Products, which were acquired through acts of unlawful, unfair, and/or fraudulent competition.

SECOND CAUSE OF ACTION

Violations of the California False Advertising Law, Bus. & Prof. Code § 17500 *et seq.*

86. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

87. In violation of Bus. & Prof. Code § 17500 *et seq.*, the advertisements, labeling, policies, acts, and practices described herein were designed to, and did, result in the purchase and use of the Kroger Products without the knowledge that the toxic artificial *trans* fats contained within could negatively affect cholesterol levels.

88. Kroger knew and reasonably should have known that the labels on the Kroger Products were untrue and/or misleading.

89. As a result, Plaintiffs, the Class, and the general public are entitled to injunctive and equitable relief, restitution, and an order for the disgorgement of the funds by which Kroger was unjustly enriched.

THIRD CAUSE OF ACTION

Violations of the Consumer Legal Remedies Act, Civ. Code § 1750 *et seq.*

90. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

91. The CLRA prohibits deceptive practices in connection with the conduct of a business that provides goods, property, or services primarily for personal, family, or household purposes.

92. Kroger's policies, acts, and practices were designed to, and did, result

1 in the purchase and use of the Kroger Products primarily for personal, family, or
 2 household purposes, and violated and continue to violate the following sections of
 3 the CLRA:

- 4 a. § 1770(a)(5): representing that goods have characteristics, uses, or
 5 benefits which they do not have.
- 6 b. § 1770(a)(7): representing that goods are of a particular standard,
 7 quality, or grade if they are of another.
- 8 c. § 1770(a)(9): advertising goods with intent not to sell them as
 9 advertised.
- 10 d. § 1770(a)(16): representing the subject of a transaction has been
 11 supplied in accordance with a previous representation when it has
 not.

12 93. As a result, Plaintiffs and the Class have suffered irreparable harm and
 13 are entitled to injunctive relief and restitution.

14 94. In compliance with Civ. Code § 1782, Plaintiffs have sent written
 15 notice to Kroger of their claims.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly
 18 situated, and the general public, pray for judgment and relief against Defendant as
 19 follows:

20 A. Declaring this action to be a proper class action.

21 B. An Order enjoining Kroger from marketing the Kroger Margarine as
 22 “A Cholesterol Free Food” so long as they contain artificial *trans* fat.

23 C. An Order compelling Kroger to conduct a corrective advertising
 24 campaign to inform the public that its products contain amounts of artificial *trans*
 25 fat which are unsafe at consumers’ actual consumption levels.

26 D. An Order requiring Kroger to disgorge all monies, revenues, and
 27 profits obtained by means of any wrongful act or practice.

1 E. An Order compelling Kroger to destroy all misleading and deceptive
2 advertising materials and products.

3 F. An Order requiring Kroger to pay restitution to restore all funds
4 acquired by means of any act or practice declared by this Court to be an unlawful,
5 unfair, or fraudulent business act or practice, untrue or misleading advertising, or a
6 violation of the CLRA, plus pre-and post-judgment interest thereon;

7 G. Costs, expenses, and reasonable attorneys' fees;

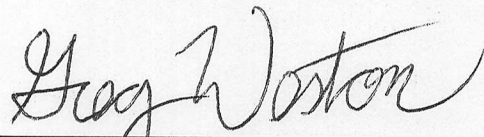
8 H. Any other and further relief the Court deems necessary, just, or
9 proper.

10 **JURY DEMAND**

11 Plaintiffs demand a trial by jury on all causes of action so triable.

12
13 DATED: February 10, 2010

Respectfully Submitted,

14
15 

16 THE WESTON FIRM
17 GREGORY S. WESTON
18 JACK FITZGERALD
19 888 Turquoise Street
20 San Diego, CA 92109
21 Telephone: 858 488 1672
22 Facsimile: 480 247 4553

23 BECK & LEE BUSINESS TRIAL
24 LAWYERS
25 JARED H. BECK
26 ELIZABETH LEE BECK
27 28 West Flagler Street, Suite 555
28 Miami, FL 33130
Telephone: 305 789 0072
Facsimile: 786 664 3334

Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dolly Gee and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

CV10- 1025 DMG (MANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

The Kroger Co.

CSC - Lawyers Incorporating Service

2730 Gateway Oaks Drive Suite 100

Sacramento, CA 95833

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JENNIFER RED and REBECCA YUMUL, on Behalf
of Themselves and All Others Similarly Situated,

PLAINTIFF(S)

v.

THE KROGER COMPANY,

DEFENDANT(S).

CASE NUMBER

CV10-01025 DMG(MANX)**SUMMONS**TO: DEFENDANT(S): The Kroger Company

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Gregory S. Weston, whose address is The Weston Firm, 888 Turquoise Street, San Diego, CA 92109. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: FEB 11 2010By: NANCY CASTRO
Deputy Clerk

(Seal of the Court)



1144

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> JENNIFER RED and REBECCA YUMUL, on Behalf of Themselves and All Others Similarly Situated,	DEFENDANTS THE KROGER COMPANY
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) The Weston Firm, Gregory S. Weston, 888 Turquoise Street, San Diego, CA 92109, (858) 488-1672; Beck and Lee Business Trial Lawyers, Jared H. Beck, 28 West Flagler Street Suite 555, Miami, FL 33130, (305) 789-0072	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ to be determined at trial

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 False Advertising under the Lanham Act, 15 U.S.C. § 1125

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutional of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: CV10-01025 DMG(MANX)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes
 If yes, list case number(s): CV10-00927 MMM (AJWx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Ohio

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Greg W. White*

Date 2-10-10

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))